



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

Megan Sowards Newton
Jones Day
51 Louisiana Avenue, NW
Washington, DC 20001

JUN 18 2018

RE: MUR 7111
Trump Organization

Dear Ms. Newton:

On July 27, 2016, the Federal Election Commission notified you, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended. On June 7, 2018, the Commission found, on the basis of the information in the complaint, and information provided by you, that there is no reason to believe that you violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(f)(1) and dismissed the allegation that you violated § 30118(a). Accordingly, the Commission closed its file in this matter.

Documents related to the case will be placed on the public record within 30 days. *See* Disclosure of Certain Documents in Enforcement and Other Matters, 81 Fed. Reg. 50,702 (Aug. 2, 2016). The Factual and Legal Analysis, which explains the Commission's findings, is enclosed for your information.

If you have any questions, please contact me, the attorney assigned to this matter, at (202) 694-1650.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Shonkwiler", with a long horizontal stroke extending to the right.

Mark Shonkwiler
Assistant General Counsel

Enclosure
Factual and Legal Analysis

1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

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5 MUR: 7111

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7 RESPONDENTS: Donald J. Trump

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9 Donald J. Trump for President, Inc. and Timothy Jost in his capacity as
10 treasurer

11
12 The Trump Organization

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14 Meredith McIver
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17 **I. INTRODUCTION**

18 This matter involves allegations that the Trump Organization made a prohibited corporate
19 contribution to 2016 Presidential candidate Donald J. Trump and his principal campaign
20 committee when Trump Organization employee Meredith McIver provided speechwriting
21 services for Melania Trump's July 2016 speech at the Republican National Convention. The
22 complaint further alleges that Respondents may have violated the Act by engaging in corporate
23 facilitation of contributions by using of Trump Organization letterhead, and that McIver's
24 unreimbursed expenses for alleged travel to the Republican National Convention exceeded the
25 allowable amount for campaign volunteers.

26 As discussed below, Respondents contend that the speechwriting services were a personal
27 in-kind contribution from Trump to his campaign, and that they were reported as such in the
28 Committee's disclosure reports. It appears, however, based on the Committee's disclosure
29 reports, that the payments for the services were not paid in advance, as required by the Act. As a
30 result, a corporate contribution to the Committee may have resulted. Because the value of such
31 services appears to be *de minimis*, however, the Commission dismisses the allegation in an

1 exercise of prosecutorial discretion pursuant to *Heckler v. Chaney*, 470 U.S. 821 (1985). The
2 Commission further finds no reason to believe that the Trump Organization violated the Act by
3 engaging in corporate facilitation of contributions, no reason to believe that McIver, the
4 Committee, or the Trump Organization violated the Act by making or accepting excessive
5 contributions in connection with McIver's alleged travel to the Republican National Convention,
6 and closes the file.

7 **II. FACTS**

8 Donald J. Trump was a candidate for president in 2016, and Donald J. Trump for
9 President, Inc. and Timothy Jost in his capacity as treasurer (the "Committee") is his principal
10 campaign committee. The Trump Organization is an LLC wholly owned by Donald J. Trump.¹
11 Meredith McIver is an employee of the Trump Organization.²

12 On July 18, 2016, Melania Trump gave a speech at the Republican National Convention.
13 McIver acknowledged, in a letter printed on Trump Organization letterhead, that she worked
14 with Melania Trump on her convention speech.³ The Committee also concedes that McIver
15 worked on the speech, characterizing the services as "isolated" and asserting that McIver spent
16 "minimal time—a portion of one day" in connection with the speech.⁴

¹ Resp. at 4, n.1. It is not clear from the available information whether Trump Organization is taxed as a corporation or a partnership.

² *Id.* at 1.

³ McIver's acknowledgement came on July 20, 2016 in a public statement in which she offered to resign her position with the Trump organization. Compl. ¶¶ 7-9.

⁴ Resp. at 3.

1 Trump asserts that he paid for McIver's services with personal funds and then contributed
2 those services to the Committee as an in-kind candidate contribution.⁵ The Committee, in its
3 August monthly disclosure report, reported receiving a \$23,775.50 contribution from Donald J.
4 Trump on July 23, 2016, in the form of "IN-KIND: PAYROLL."⁶ Memo entries in the report
5 show that this amount included \$356.01 for "PAYROLL" for Meredith McIver.⁷

6 III. LEGAL ANALYSIS

7 A. Allegation of Corporate Contributions

8 The complaint alleges that the Trump Organization made, and the Committee accepted,
9 corporate in-kind contributions consisting of McIver's speechwriting services and McIver's use
10 of Trump Organization office space while providing those services.⁸ The response states that
11 Trump Organization funds were not used to pay for McIver's services because Trump first
12 "prepaid" for the services using personal funds, then made an in-kind personal contribution in
13 that amount to the Committee.⁹ The response also asserts that McIver's services required only a
14 portion of one day and argues that the value was *de minimis*.¹⁰

15 The Act and Commission regulations prohibit any corporation from making contributions
16 to a candidate's principal campaign committee, and further prohibit any candidate or political

⁵ *Id.*

⁶ August 2016 Monthly Report of the Committee at 9,619 (amended).

⁷ *Id.*, Schedule B at 98,869 (amended). The McIver amount appears to be included with those of eight other Trump Organization employees for whom Trump reports personally paying for services.

⁸ Compl. ¶¶ 15-16, 18 ("Counts" 1-2, 4).

⁹ Resp. at 3.

¹⁰ *Id.* at 3, 5.

1 committee from knowingly accepting or receiving such a contribution.¹¹ A "contribution" is
2 "any gift, subscription, loan, advance, or deposit of money or anything of value made by any
3 person for the purpose of influencing any election for Federal office."¹² "Anything of value"
4 covers all in-kind contributions,¹³ including payments to another person for the provision of
5 services.¹⁴ Commission regulations permit a candidate to use his or her personal funds to make
6 unlimited contributions to his or her campaign.¹⁵

7 The Commission has concluded that no corporate contribution results where a
8 corporation provides services of its employees to a committee and is compensated by a
9 permissible contributor "*prior* to the rendering of those services and *prior* to compensating the
10 employees for such services."¹⁶ Under such an "advance payment" method, the recipient
11 committee should report as the date of the contribution "the date or dates on which the services
12 are performed for that candidate."¹⁷ If, however, the method of payment involves an initial
13 provision of something of value by the corporation, then the services may constitute a
14 contribution from the corporation.¹⁸

¹¹ 52 U.S.C. § 30118(a).

¹² *Id.* § 30101(8)(A)(i); 11 C.F.R. § 100.52(a); *see also* 52 U.S.C. § 30118(b)(2) (defining "contribution" to include "any direct or indirect payment, distribution, loan, advance, deposit, or gift of money, or any services, or anything of value . . . to any candidate, campaign committee, or political party or organization, in connection with any election to any of the offices referred to in this section.").

¹³ 11 C.F.R. § 100.52(d)(1).

¹⁴ 52 U.S.C. § 30101(8)(A)(ii); 11 C.F.R. § 100.54.

¹⁵ 11 C.F.R. § 110.10; *see also* Advisory Op. 1988-7 (Bakal).

¹⁶ *See* Advisory Op. 1984-37 (American Medical Association and American Medical Association Political Action Committee) at 3-4 (emphasis added).

¹⁷ *Id.* at 4.

¹⁸ *See* Advisory Op. 1984-24 (Sierra Club and Sierra Club Committee on Political Education) (the proposed "advance payment" and "reimbursement" methods were impermissible because initial disbursement of corporate

1 Here, the Committee reported that the contribution of payroll for McIver's speechwriting
2 services occurred on July 23, 2016.¹⁹ The speech for which McIver's speechwriting services
3 were provided, however, occurred on July 18, 2016, and any such services necessarily would
4 have been provided on or before that date. Therefore, if Trump did not pay for McIver's services
5 until July 23, it appears that the Trump Organization may have made a corporate contribution by
6 initially providing the services.²⁰ Regardless, the alleged amount in violation in this case —
7 \$356.01 for McIver's services and any prorated share of the value of the corporate office space
8 in which she worked — is *de minimis* and does not justify the use of further Commission
9 resources. Accordingly, based on the available information, the Commission dismisses the
10 allegation that the Trump Organization, and Donald J. Trump and the Committee, violated 52
11 U.S.C. § 30118(a) by making and accepting, respectively, corporate contributions in connection
12 with the speechwriting services provided by McIver.²¹

13 **B. Allegation of Corporate Facilitation**

14 The complaint further alleges that McIver's use of Trump Organization letterhead for her
15 letter regarding the speechwriting services provides "reason to believe that the Trump
16 Organization is using its corporate name in other ways, and potentially is using its corporate
17 name to facilitate contributions to [the Committee]." Respondents reply that "the complaint
18 provides absolutely no explanation of this conclusion—no factual allegation or assertion to the

treasury funds to compensate employees for services to federal candidates constituted a loan, advance, or something of value).

¹⁹ See *supra* at 3.

²⁰ See Advisory Op. at 1984-24 (Sierra Club and Sierra Club Committee on Political Education).

²¹ *Heckler v. Chaney*, 470 U.S. 821 (1985).

1 effect—and nothing in the complaint has anything to do with fundraising.”²² The response
2 therefore concludes “that there is no information provided from which to determine a violation
3 has occurred.”²³

4 Commission regulations provide that corporations are prohibited from facilitating the
5 making of contributions to candidates.²⁴ Facilitation means using corporate resources or
6 facilities to engage in fundraising activities in connection with any federal election.²⁵ Here, the
7 complaint provides no facts indicating that the Trump Organization used its resources or
8 facilities to engage in any fundraising activities. The one piece of information presented by the
9 complaint — McIver’s use of the Trump Organization letterhead to issue her letter accepting
10 responsibility for providing the speechwriting services — fails to implicate any fundraising
11 activity. Therefore, the Commission finds no reason to believe that the Trump Organization
12 violated 52 U.S.C. § 30118(a) and 11 C.F.R. § 114.2(f)(1) by engaging in corporate facilitation
13 of contributions.

14 **C. Allegation that McIver Exceeded Limits on Unreimbursed Travel**

15 The complaint further alleges that McIver travelled to the Republican National
16 Convention and that her travel expenses exceeded the limits placed on unreimbursed travel for
17 campaign volunteers set forth in 11 C.F.R. § 100.79(a) and, presumably, resulted in a violation

²² Resp. at 4.

²³ *Id.* (citing 11 C.F.R. § 111.4(d)(3) (requiring a complaint to include a clear and concise recitation of facts which describe a violation)).

²⁴ 11 C.F.R. § 114.2(f)(1).

²⁵ *Id.*

1 of the Act.²⁶ The complaint does not specify any particular provision of the Act that may have
2 been violated or which respondent may have violated the Act. Nor does it provide any factual
3 evidence to support its general allegation. It is therefore unclear whether the complaint is
4 alleging a potential excessive contribution by McIver or an impermissible corporate contribution
5 by the Trump Organization.

6 The response states that McIver did not travel to the Republican National Convention.²⁷
7 In light of this denial, and because there is no evidence to support the complaint's allegation that
8 McIver traveled to the Republican National Convention, the Commission finds no reason to
9 believe that McIver violated 52 U.S.C. § 30116(a)(1)(A) by making an excessive contribution to
10 the Committee, and no reason to believe that the Trump Organization violated 52 U.S.C.
11 § 30118(a) by making an impermissible corporate contribution to the Committee, or that the
12 Committee violated 52 U.S.C. §§ 30116(f) or 30118(a) by accepting such an excessive or
13 prohibited contribution, in connection with McIver's alleged travel to the Republican National
14 Convention.

²⁶ Compl. ¶19 ("Count 5").

²⁷ Resp. at 3-4, 6.